

SENATE BILL 774

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2003 Regular Session
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By: **Senator Hollinger**
Constitutional Requirements Complied with for Introduction in the last 35 Days of
Session
Introduced and read first time: March 20, 2003
Rules suspended
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 29, 2003

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations - State Board of Physician Quality Assurance**

3 FOR the purpose of continuing for a certain period of time the State Board of
4 Physician Quality Assurance by extending to a certain date the termination
5 provisions relating to the statutory and regulatory authority of the Board;
6 terminating the State Board of Physician Quality Assurance in accordance with
7 the provisions of the Maryland Program Evaluation Act (Sunset Law) by
8 repealing certain provisions relating to the statutory and regulatory authority of
9 the Board; requiring the Secretary of Health and Mental Hygiene to set
10 standards for the licensure of physicians, the licensure, certification,
11 registration, and regulation of allied health professionals under the jurisdiction
12 of the Secretary, and the practice of medicine in the State; requiring certain
13 individuals to be licensed by the Secretary before certain individuals may
14 practice medicine in the State; authorizing the Secretary to adopt certain rules
15 and regulations regarding the licensure of physicians in the State; authorizing
16 the Secretary to employ certain staff to administer the provisions of this Act;
17 creating the Physicians Licensing Fund as a continuing, nonlapsing special fund
18 in the Department; authorizing the Secretary to establish reasonable fees for
19 the issuance of and renewal of certain licenses; requiring the Comptroller of the
20 State to allocate certain funds from the Fund to certain programs or to the Fund
21 contingent upon certain circumstances; directing the payment of certain fees to
22 the Fund; requiring the Fund be used for certain purposes; requiring the
23 Secretary or the Secretary's designee to administer the Fund; requiring an audit
24 of the Fund under a certain provision of law; clarifying certain provisions of law
25 regarding the transfer of authority from the Board to the Secretary; requiring

1 that an evaluation of the statute and regulations that relate to the regulation of
 2 physicians be performed on or before a certain date; requiring the Secretary to
 3 adopt certain regulations on or before a certain date; providing for the transfer
 4 of certain functions, powers, duties, equipment, revenues, assets, liabilities, and
 5 records of the Board to the Secretary including certain functions, powers, and
 6 duties in connection with the regulation of physicians, respiratory care
 7 practitioners, radiation oncology/therapy technologists, medical radiation
 8 technologists, ~~and nuclear medicine technologists, and physician assistants~~;
 9 providing for the transfer of any balance remaining in or payable to the Board of
 10 Physician Quality Assurance Fund to the Physicians Licensing Fund; providing
 11 for the continuation of employment of certain employees; providing for the
 12 construction of this Act; defining certain terms; providing for the termination of
 13 certain provisions of this Act; making ~~certain provisions~~ of this Act contingent on
 14 the ~~failure~~ passage of certain other legislation; requiring the publisher of the
 15 Annotated Code, in consultation with and subject to the approval of the
 16 Department of Legislative Services, to correct certain references rendered
 17 incorrect by this Act; and generally relating to the licensure and regulation of
 18 physicians and other health occupations regulated by the State Board of
 19 Physician Quality Assurance.

20 BY repealing and reenacting, with amendments,
 21 Article - Health Occupations
 22 Section ~~14-702, 15-202(a), 15-311, and 15-314~~
 23 Annotated Code of Maryland
 24 (2000 Replacement Volume and 2002 Supplement)

25 BY repealing
 26 Article - Health Occupations
 27 Section ~~14-101, and the subtitle "Subtitle 1. Definitions; General Provisions";~~
 28 ~~14-201 14-201 through 14-205, inclusive, 14-206(a), 14-207, inclusive,~~
 29 ~~and 14-208 and the subtitle "Subtitle 2. State Board of Physician Quality~~
 30 ~~Assurance"; 14-301, 14-302, and 14-307 through 14-321, inclusive, and~~
 31 ~~the subtitle "Subtitle 3. Licensing"; and 14-401 through 14-415, inclusive,~~
 32 ~~14-402(e), 14-405, 14-405.1, 14-406, 14-408(a) and (b), 14-409,~~
 33 ~~14-411(a) through (e) and (h) through (q), and 14-411.1 and the subtitle~~
 34 ~~"Subtitle 4. Disciplinary Actions"~~
 35 Annotated Code of Maryland
 36 (2000 Replacement Volume and 2002 Supplement)

37 BY renumbering
 38 Article - Health Occupations
 39 Section ~~14-102~~ 14-206(b) through (e), inclusive, 14-306, 14-402(a) through (d),
 40 inclusive, 14-403, 14-404, 14-407, 14-408(c) and (d), 14-410, 14-411(f)
 41 and (g), 14-412 through 14-415, inclusive; 14-501 through 14-507,
 42 inclusive, and the subtitle "Subtitle 5. Miscellaneous Provisions";
 43 14-5A-01 through 14-5A-25, inclusive, and the subtitle "Subtitle 5A.
 44 Respiratory Care Practitioners"; 14-5B-01 through 14-5B-21, inclusive,

1 and the subtitle "Subtitle 5B. Radiation Oncology/Therapy, Medical
 2 Radiation, and Nuclear Medicine Technologists"; 14-601 through 14-607,
 3 inclusive, and the subtitle "Subtitle 6. Prohibited Acts; Penalties"; and
 4 14-701 and the subtitle "Subtitle 7. Short Title; Termination of Title",
 5 respectively
 6 to be Section ~~14-107~~ 14-108(a) through (d), inclusive, 14-109, 14-110(a)
 7 through (d), inclusive, 14-111, 14-112, 14-113, 14-114(a) and (b), 14-115,
 8 14-116(a) and (b), and 14-117 through 14-120, inclusive; 14-201 through
 9 14-207, inclusive, and the subtitle "Subtitle 2. Miscellaneous Provisions";
 10 14-301 through 14-325, inclusive, and the subtitle "Subtitle 3. Respiratory
 11 Care Practitioners"; 14-401 through 14-421, inclusive, and the subtitle
 12 "Subtitle 4. Radiation Oncology/Therapy, Medical Radiation, and Nuclear
 13 Medicine Technologists"; 14-501 through 14-507, inclusive, and the
 14 subtitle "Subtitle 5. Prohibited Acts; Penalties"; and 14-601 and the
 15 subtitle "Subtitle 6. Short Title; Termination of Title", respectively
 16 Annotated Code of Maryland
 17 (2000 Replacement Volume and 2002 Supplement)

18 BY adding to
 19 Article - Health Occupations
 20 Section 14-101 ~~through 14-106~~ and 14-103 through 14-107
 21 Annotated Code of Maryland
 22 (2000 Replacement Volume and 2002 Supplement)

23 BY repealing and reenacting, with amendments,
 24 Article - Health Occupations
 25 Section 14-109, 14-112, 14-117, 14-202(b)(9), 14-204(g), 14-317, 14-319,
 26 14-405(a) and (b), 14-414, and 14-502(c)
 27 Annotated Code of Maryland
 28 (2000 Replacement Volume and 2002 Supplement)
 29 (As enacted by Section 3 of this Act)

30 BY repealing and reenacting, with amendments,
 31 Article - Health Occupations
 32 Section 14-702
 33 Annotated Code of Maryland
 34 (2000 Replacement Volume and 2002 Supplement)
 35 (As enacted by Section 1 of this Act)

36 BY repealing and reenacting, with amendments,
 37 Article - Courts and Judicial Proceedings
 38 Section 5-715
 39 Annotated Code of Maryland
 40 (2002 Replacement Volume)

1 BY repealing and reenacting, with amendments,
 2 Article - State Government
 3 Section 8-403(b)(51)
 4 Annotated Code of Maryland
 5 (1999 Replacement Volume and 2002 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Health Occupations**

9 14-702.

10 Subject to the evaluation and reestablishment provisions of the Program
 11 Evaluation Act, this title and all rules and regulations adopted under this title shall
 12 terminate and be of no effect after [July] OCTOBER 1, 2003.

13 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 14-101 ~~and the~~
 14 ~~subtitle "Subtitle 1. Definitions; General Provisions"; 14-201 through 14-205,~~
 15 ~~inclusive, 14-206(a), 14-207, inclusive, and 14-208 and the subtitle "Subtitle 2.~~
 16 ~~State Board of Physician Quality Assurance"; 14-301, 14-302, and 14-307 through~~
 17 ~~14-321, inclusive, and the subtitle "Subtitle 3. Licensing"; and 14-401 through~~
 18 ~~14-415, inclusive, 14-402(e), 14-405, 14-405.1, 14-406, 14-408(a) and (b), 14-409,~~
 19 ~~14-411(a) through (e) and (h) through (q), and 14-411.1 and the subtitle "Subtitle 4.~~
 20 ~~Disciplinary Actions" of Article - Health Occupations of the Annotated Code of~~
 21 ~~Maryland be repealed.~~

22 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) ~~14-102~~
 23 ~~14-206(b) through (e), inclusive, 14-306, 14-402(a) through (d), inclusive, 14-403,~~
 24 ~~14-404, 14-407, 14-408(c) and (d), 14-410, 14-411(f) and (g), 14-412 through~~
 25 ~~14-415, inclusive; 14-501 through 14-507, inclusive, and the subtitle "Subtitle 5.~~
 26 ~~Miscellaneous Provisions"; 14-5A-01 through 14-5A-25, inclusive, and the subtitle~~
 27 ~~"Subtitle 5A. Respiratory Care Practitioners"; 14-5B-01 through 14-5B-21,~~
 28 ~~inclusive, and the subtitle "Subtitle 5B. Radiation Oncology/Therapy, Medical~~
 29 ~~Radiation, and Nuclear Medicine Technologists"; 14-601 through 14-607, inclusive,~~
 30 ~~and the subtitle "Subtitle 6. Prohibited Acts; Penalties"; and 14-701 and the subtitle~~
 31 ~~"Subtitle 7. Short Title; Termination of Title", respectively, of Article - Health~~
 32 ~~Occupations of the Annotated Code of Maryland be renumbered to be Section(s)~~
 33 ~~14-107 14-108(a) through (d), inclusive, 14-109, 14-110(a) through (d), inclusive,~~
 34 ~~14-111, 14-112, 14-113, 14-114(a) and (b), 14-115, 14-116(a) and (b), 14-117~~
 35 ~~through 14-120, inclusive; 14-201 through 14-207, inclusive, and the subtitle~~
 36 ~~"Subtitle 2. Miscellaneous Provisions"; 14-301 through 14-325, inclusive, and the~~
 37 ~~subtitle "Subtitle 3. Respiratory Care Practitioners"; 14-401 through 14-421,~~
 38 ~~inclusive, and the subtitle "Subtitle 4. Radiation Oncology/Therapy, Medical~~
 39 ~~Radiation, and Nuclear Medicine Technologists"; 14-501 through 14-507, inclusive,~~
 40 ~~and the subtitle "Subtitle 5. Prohibited Acts; Penalties"; and 14-601 and the subtitle~~
 41 ~~"Subtitle 6. Short Title; Termination of Title", respectively.~~

1 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Health Occupations**

4 14-101.

5 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 (B) "FACULTY" MEANS THE MEDICAL AND CHIRURGICAL FACULTY OF THE
7 STATE OF MARYLAND.

8 (C) "HOSPITAL" HAS THE MEANING STATED IN § 19-301 OF THE HEALTH -
9 GENERAL ARTICLE.

10 (D) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A
11 LICENSE ISSUED BY THE SECRETARY TO PRACTICE MEDICINE.

12 (E) "LICENSED PHYSICIAN" MEANS, UNLESS THE CONTEXT REQUIRES
13 OTHERWISE, A PHYSICIAN, INCLUDING A DOCTOR OF OSTEOPATHY, WHO IS
14 LICENSED BY THE SECRETARY TO PRACTICE MEDICINE.

15 (F) "LICENSEE" MEANS AN INDIVIDUAL TO WHOM A LICENSE IS ISSUED,
16 INCLUDING AN INDIVIDUAL PRACTICING MEDICINE WITHIN OR AS A PROFESSIONAL
17 CORPORATION OR PROFESSIONAL ASSOCIATION.

18 (G) "PERFORM ACUPUNCTURE" MEANS TO STIMULATE A CERTAIN POINT OR
19 POINTS ON OR NEAR THE SURFACE OF THE HUMAN BODY BY THE INSERTION OF
20 NEEDLES TO PREVENT OR MODIFY THE PERCEPTION OF PAIN OR TO NORMALIZE
21 PHYSIOLOGICAL FUNCTIONS, INCLUDING PAIN CONTROL, FOR THE TREATMENT OF
22 AILMENTS OR CONDITIONS OF THE BODY.

23 (H) "PHYSICIAN" MEANS AN INDIVIDUAL WHO PRACTICES MEDICINE.

24 (I) (1) "PRACTICE MEDICINE" MEANS TO ENGAGE, WITH OR WITHOUT
25 COMPENSATION, IN MEDICAL:

26 (I) DIAGNOSIS;

27 (II) HEALING;

28 (III) TREATMENT; OR

29 (IV) SURGERY.

30 (2) "PRACTICE MEDICINE" INCLUDES DOING, UNDERTAKING,
31 PROFESSING TO DO, AND ATTEMPTING ANY OF THE FOLLOWING:

32 (I) DIAGNOSING, HEALING, TREATING, PREVENTING,
33 PRESCRIBING FOR, OR REMOVING ANY PHYSICAL, MENTAL, OR EMOTIONAL AILMENT
34 OR SUPPOSED AILMENT OF AN INDIVIDUAL:

- 1 1. BY PHYSICAL, MENTAL, EMOTIONAL, OR OTHER PROCESS
2 THAT IS EXERCISED OR INVOKED BY THE PRACTITIONER, THE PATIENT, OR BOTH; OR
- 3 2. BY APPLIANCE, TEST, DRUG, OPERATION, OR TREATMENT;
- 4 (II) ENDING OF A HUMAN PREGNANCY; AND
- 5 (III) PERFORMING ACUPUNCTURE.
- 6 (3) "PRACTICE MEDICINE" DOES NOT INCLUDE:
- 7 (I) SELLING ANY NONPRESCRIPTION DRUG OR MEDICINE;
- 8 (II) PRACTICING AS AN OPTICIAN; OR
- 9 (III) PERFORMING A MASSAGE OR OTHER MANIPULATION BY HAND,
10 BUT BY NO OTHER MEANS.

11 (J) "RELATED INSTITUTION" HAS THE MEANING STATED IN § 19-301 OF THE
12 HEALTH - GENERAL ARTICLE.

13 ~~14-102.~~ 14-103.

14 SUBJECT TO THE PROVISIONS OF THIS TITLE, THE SECRETARY SHALL SET
15 STANDARDS FOR THE LICENSURE OF PHYSICIANS, THE LICENSURE, CERTIFICATION,
16 REGISTRATION, AND REGULATION OF ALLIED HEALTH PROFESSIONALS UNDER THE
17 JURISDICTION OF THE SECRETARY, AND THE PRACTICE OF MEDICINE IN THE STATE.

18 ~~14-103.~~ 14-104.

19 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE OR § 13-516 OF THE
20 EDUCATION ARTICLE, AN INDIVIDUAL SHALL BE LICENSED BY THE SECRETARY
21 BEFORE THE INDIVIDUAL MAY PRACTICE MEDICINE IN THIS STATE.

22 ~~14-104.~~ 14-105.

23 THE SECRETARY MAY ADOPT RULES AND REGULATIONS TO:

24 (1) CARRY OUT THE PROVISIONS OF THIS TITLE AND TITLE 15 OF THIS
25 ARTICLE;

26 (2) REGULATE THE PERFORMANCE OF ACUPUNCTURE, BUT ONLY TO
27 THE EXTENT AUTHORIZED BY § 14-206 OF THIS TITLE;

28 (3) AFTER CONSULTING WITH THE STATE BOARD OF PHARMACY,
29 REGULATE THE DISPENSING OF PRESCRIPTION DRUGS BY A LICENSED PHYSICIAN;

30 (4) SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT, DENY A
31 LICENSE TO AN APPLICANT OR REFUSE TO RENEW OR REINSTATE AN APPLICANT'S
32 LICENSE FOR ANY OF THE REASONS THAT ARE GROUNDS FOR ACTION AS
33 DETERMINED BY THE SECRETARY;

1 (5) ON RECEIPT OF A WRITTEN AND SIGNED COMPLAINT, INCLUDING A
2 REFERRAL FROM THE COMMISSIONER OF LABOR AND INDUSTRY, CONDUCT AN
3 UNANNOUNCED INSPECTION OF THE OFFICE OF A PHYSICIAN OR ACUPUNCTURIST,
4 OTHER THAN AN OFFICE OF A PHYSICIAN OR ACUPUNCTURIST IN A HOSPITAL,
5 RELATED INSTITUTION, FREESTANDING MEDICAL FACILITY, OR A FREESTANDING
6 BIRTHING CENTER, TO DETERMINE COMPLIANCE AT THAT OFFICE WITH THE
7 CENTERS FOR DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

8 (6) CONTRACT WITH OTHERS FOR THE PURCHASE OF INVESTIGATIVE,
9 LEGAL AND ACCOUNTING SERVICES, EXPERT WITNESSES, CONSULTANTS,
10 MEDIATORS, PHYSICIAN REHABILITATION, PEER REVIEW, AND OTHER
11 ADMINISTRATIVE AND EXAMINATION SERVICES TO CARRY OUT THE PROVISIONS OF
12 THIS TITLE AND TITLE 15 OF THIS ARTICLE;

13 (7) INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE OR TITLE 15
14 OF THIS ARTICLE OR AN ALLEGED VIOLATION OF A REGULATION ADOPTED IN
15 ACCORDANCE WITH THIS TITLE OR TITLE 15 OF THIS ARTICLE;

16 (8) ISSUE SUBPOENAS AND ADMINISTER OATHS IN CONNECTION WITH
17 ITEM (7) OF THIS SECTION;

18 (9) AUTHORIZE CERTAIN INDIVIDUALS TO PRACTICE MEDICINE
19 WITHOUT A LICENSE;

20 (10) AUTHORIZE THE USE OF DELEGATION AGREEMENTS;

21 (11) DETERMINE THE QUALIFICATIONS OF AN APPLICANT FOR
22 LICENSURE INCLUDING STANDARDS TO DEMONSTRATE ORAL COMPETENCY IN THE
23 ENGLISH LANGUAGE;

24 (12) REQUIRE AN APPLICATION FEE, OR WAIVE CERTAIN INDIVIDUALS
25 FROM AN APPLICATION FEE;

26 (13) REQUIRE THE PASSAGE OF AN EXAMINATION AS A CONDITION OF
27 LICENSURE OR WAIVE CERTAIN INDIVIDUALS FROM THE REQUIREMENT OF
28 PASSAGE OF AN EXAMINATION;

29 (14) ISSUE A LICENSE TO AN ELIGIBLE APPLICANT;

30 (15) REQUIRE A LICENSE FEE OR WAIVE CERTAIN INDIVIDUALS FROM
31 THE REQUIREMENT OF A LICENSE FEE;

32 (16) PLACE A LICENSEE ON INACTIVE STATUS;

33 (17) ISSUE A LIMITED LICENSE FOR POSTGRADUATE TEACHING OR A
34 RESTRICTED LICENSE FOR THE PRACTICE OF OSTEOPATHY;

35 (18) ESTABLISH A PHYSICIAN REHABILITATION PROGRAM;

1 ~~(19)~~ ESTABLISH GROUNDS FOR REPRIMAND, PROBATION, SUSPENSION,
2 ~~OR REVOCATION OF A LICENSE;~~

3 ~~(20)~~ (19) FOLLOWING THE FILING OF CHARGES AND THE APPROPRIATE
4 HEARING PROCESS:

5 (I) REPRIMAND A LICENSEE, PLACE A LICENSEE ON PROBATION,
6 OR SUSPEND OR REVOKE A LICENSE; AND

7 (II) IN ADDITION TO A SANCTION ISSUED UNDER ITEM (I) OF THIS
8 PARAGRAPH, IMPOSE ANY ADDITIONAL RESTRICTIONS OR CONDITIONS ON A
9 LICENSEE;

10 ~~(21)~~ (20) IMPOSE A FINE ON A LICENSEE PURSUANT TO REGULATION;
11 AND

12 ~~(22)~~ (21) REINSTATE A LICENSE.

13 ~~14-105.~~ 14-106.

14 (A) (1) THE SECRETARY MAY EMPLOY STAFF TO ADMINISTER THE
15 PROVISIONS OF THIS TITLE AND TITLE 15 OF THIS ARTICLE IN ACCORDANCE WITH
16 THE STATE BUDGET. THE SECRETARY MAY DESIGNATE ONE OF THE STAFF AS AN
17 EXECUTIVE DIRECTOR.

18 (2) STAFF OTHER THAN STAFF OF THE FORMER STATE BOARD OF
19 PHYSICIAN QUALITY ASSURANCE HIRED ON OR BEFORE SEPTEMBER 30, 1992, ARE IN
20 THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS
21 IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

22 (3) THE SECRETARY SHALL DETERMINE THE APPROPRIATE JOB
23 CLASSIFICATIONS AND GRADES FOR ALL STAFF.

24 (B) TO PROVIDE ADEQUATE ASSISTANCE IN THE INVESTIGATION,
25 DEVELOPMENT, AND PROSECUTION OF CASES REFERRED TO THE SECRETARY, THE
26 SECRETARY SHALL BE ASSIGNED, FOR THE PURPOSES OF THIS TITLE AND TITLE 15
27 OF THIS ARTICLE, A SUFFICIENT NUMBER OF:

28 (1) ASSISTANT ATTORNEYS GENERAL BY THE ATTORNEY GENERAL; AND

29 (2) INVESTIGATORS AND HEARING OFFICERS.

30 ~~14-106.~~ 14-107.

31 (A) THERE IS A PHYSICIANS LICENSING FUND.

32 (B) THE SECRETARY MAY SET REASONABLE FEES FOR THE ISSUANCE AND
33 RENEWAL OF LICENSES, CERTIFICATES, REGISTRATIONS, AND OTHER SERVICES.

34 (C) (1) ~~EXCEPT FOR FEES ASSESSED TO PAY THE COSTS OF AN~~
35 ~~EXAMINATION OR FOR THE PHYSICIAN REHABILITATION PROGRAM AND PEER~~

1 ~~REVIEW ACTIVITIES~~; THE SECRETARY SHALL PAY ALL FEES COLLECTED UNDER THE
2 PROVISIONS OF THIS TITLE TO THE COMPTROLLER OF THE STATE.

3 (2) (I) IF THE GOVERNOR DOES NOT INCLUDE IN THE BUDGET AT
4 LEAST \$750,000 FOR THE OPERATION OF THE HEALTH MANPOWER SHORTAGE
5 INCENTIVE PROGRAM AND THE LOAN ASSISTANCE REPAYMENT PROGRAM -
6 PRIMARY CARE SERVICES AS ADMINISTERED BY THE MARYLAND HIGHER
7 EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE:

8 1. 14 PERCENT OF THE FEES RECEIVED FROM THE
9 SECRETARY TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS
10 FOLLOWS:

11 A. ONE-HALF TO MAKE GRANTS UNDER THE HEALTH
12 MANPOWER SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE
13 EDUCATION ARTICLE; AND

14 B. ONE-HALF TO MAKE GRANTS UNDER THE JANET L.
15 HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM UNDER § 18-1502(C) OF THE
16 EDUCATION ARTICLE TO PHYSICIANS ENGAGED IN PRIMARY CARE OR TO MEDICAL
17 RESIDENTS SPECIALIZING IN PRIMARY CARE WHO AGREE TO PRACTICE FOR AT
18 LEAST 2 YEARS AS PRIMARY CARE PHYSICIANS IN A GEOGRAPHIC AREA OF THE
19 STATE THAT HAS BEEN DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL
20 HYGIENE AS BEING MEDICALLY UNDERSERVED; AND

21 2. THE BALANCE OF THE FEES TO THE PHYSICIANS
22 LICENSING FUND.

23 (II) IF THE GOVERNOR INCLUDES IN THE BUDGET AT LEAST
24 \$750,000 FOR THE OPERATION OF THE HEALTH MANPOWER SHORTAGE INCENTIVE
25 PROGRAM AND THE LOAN ASSISTANCE REPAYMENT PROGRAM - PRIMARY CARE
26 SERVICES AS ADMINISTERED BY THE MARYLAND HIGHER EDUCATION COMMISSION,
27 THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE PHYSICIANS LICENSING
28 FUND.

29 (D) (1) THE FUND SHALL BE USED EXCLUSIVELY TO COVER THE ACTUAL
30 DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND
31 REGULATORY DUTIES OF THE SECRETARY AS PROVIDED BY THE PROVISIONS OF
32 THIS TITLE.

33 (2) (I) THE FUND IS A CONTINUING, NONLAPSING FUND, NOT
34 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

35 (II) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE
36 TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL
37 REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS TITLE.

38 (3) EXCEPT FOR ANY MONEY TRANSFERRED TO THE FUND FROM THE
39 BOARD OF PHYSICIAN QUALITY ASSURANCE FUND, NO OTHER STATE MONEY MAY BE
40 USED TO SUPPORT THE FUND.

1 (E) (1) THE SECRETARY OR THE DESIGNEE OF THE SECRETARY SHALL
2 ADMINISTER THE FUND.

3 (2) MONEYS IN THE FUND MAY BE EXPENDED ONLY FOR ANY LAWFUL
4 PURPOSE AUTHORIZED BY THE PROVISIONS OF THIS TITLE.

5 (F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
6 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
7 ARTICLE.

8 14-109.

9 (a) To the extent permitted by the rules, regulations, and orders of the
10 [Board,] SECRETARY, an individual to whom duties are delegated by a licensed
11 physician may perform those duties without a license as provided in this section.

12 (b) The individuals to whom duties may be delegated under this section
13 include any individual authorized to practice any other health occupation regulated
14 under this article or § 13-516 of the Education Article.

15 (c) The [Board] SECRETARY shall adopt rules and regulations to delineate
16 the scope of this section. Before [it] THE SECRETARY adopts any rule or regulation
17 under this section, the [Board] SECRETARY shall invite and consider proposals from
18 any individual or health group that could be affected by the rule or regulation.

19 (d) (1) If a duty that is to be delegated under this section is a part of the
20 practice of a health occupation that is regulated under this article by another board,
21 any rule or regulation concerning that duty shall be adopted jointly by the [Board of
22 Physician Quality Assurance] SECRETARY and the board that regulates the other
23 health occupation.

24 (2) If the [two boards] SECRETARY AND THE OTHER BOARD cannot
25 agree on a proposed rule or regulation, the [proposal shall be submitted to the]
26 DECISION OF THE Secretary [for a] SHALL BE final [decision].

27 (e) An individual may perform X-ray duties without a license only if the
28 duties:

29 (1) Do not include:

30 (i) Computerized or noncomputerized tomography;

31 (ii) Fluoroscopy;

32 (iii) Invasive radiology;

33 (iv) Mammography;

34 (v) Nuclear medicine;

35 (vi) Radiation therapy; or

- 1 (8) Is addicted to, or habitually abuses, any narcotic or controlled
2 dangerous substance as defined in § 5-101 of the Criminal Law Article;
- 3 (9) Provides professional services:
- 4 (i) While under the influence of alcohol; or
- 5 (ii) While using any narcotic or controlled dangerous substance, as
6 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
7 therapeutic amounts or without valid medical indication;
- 8 (10) Promotes the sale of drugs, devices, appliances, or goods to a patient
9 so as to exploit the patient for financial gain;
- 10 (11) Willfully makes or files a false report or record in the practice of
11 medicine;
- 12 (12) Willfully fails to file or record any medical report as required under
13 law, willfully impedes or obstructs the filing or recording of the report, or induces
14 another to fail to file or record the report;
- 15 (13) On proper request, and in accordance with the provisions of Title 4,
16 Subtitle 3 of the Health - General Article, fails to provide details of a patient's
17 medical record to the patient, another physician, or hospital;
- 18 (14) Solicits professional patronage through an agent or other person or
19 profits from the acts of a person who is represented as an agent of the physician;
- 20 (15) Pays or agrees to pay any sum to any person for bringing or referring
21 a patient or accepts or agrees to accept any sum from any person for bringing or
22 referring a patient;
- 23 (16) Agrees with a clinical or bioanalytical laboratory to make payments
24 to the laboratory for a test or test series for a patient, unless the licensed physician
25 discloses on the bill to the patient or third-party payor:
- 26 (i) The name of the laboratory;
- 27 (ii) The amount paid to the laboratory for the test or test series; and
- 28 (iii) The amount of procurement or processing charge of the licensed
29 physician, if any, for each specimen taken;
- 30 (17) Makes a willful misrepresentation in treatment;
- 31 (18) Practices medicine with an unauthorized person or aids an
32 unauthorized person in the practice of medicine;
- 33 (19) Grossly overutilizes health care services;

1 (20) Offers, undertakes, or agrees to cure or treat disease by a secret
2 method, treatment, or medicine;

3 (21) Is disciplined by a licensing or disciplinary authority or convicted or
4 disciplined by a court of any state or country or disciplined by any branch of the
5 United States uniformed services or the Veterans' Administration for an act that
6 would be grounds for disciplinary action under this section;

7 (22) Fails to meet appropriate standards as determined by appropriate
8 peer review for the delivery of quality medical and surgical care performed in an
9 outpatient surgical facility, office, hospital, or any other location in this State;

10 (23) Willfully submits false statements to collect fees for which services
11 are not provided;

12 (24) Was subject to investigation or disciplinary action by a licensing or
13 disciplinary authority or by a court of any state or country for an act that would be
14 grounds for disciplinary action under this section and the licensee;

15 (i) Surrendered the license issued by the state or country to the
16 state or country; or

17 (ii) Allowed the license issued by the state or country to expire or
18 lapse;

19 (25) Knowingly fails to report suspected child abuse in violation of §
20 5-704 of the Family Law Article;

21 (26) Fails to educate a patient being treated for breast cancer of
22 alternative methods of treatment as required by § 20-113 of the Health - General
23 Article;

24 (27) Sells, prescribes, gives away, or administers drugs for illegal or
25 illegitimate medical purposes;

26 (28) Fails to comply with the provisions of § 12-102 of this article;

27 (29) Refuses, withholds from, denies, or discriminates against an
28 individual with regard to the provision of professional services for which the licensee
29 is licensed and qualified to render because the individual is HIV positive;

30 (30) Except as to an association that has remained in continuous
31 existence since July 1, 1963;

32 (i) Associates with a pharmacist as a partner or co-owner of a
33 pharmacy for the purpose of operating a pharmacy;

34 (ii) Employs a pharmacist for the purpose of operating a pharmacy;
35 or

1 (iii) Contracts with a pharmacist for the purpose of operating a
2 pharmacy;

3 (31) Except in an emergency life-threatening situation where it is not
4 feasible or practicable, fails to comply with the Centers for Disease Control's
5 guidelines on universal precautions;

6 (32) Fails to display the notice required under § [14-415] 14-120 of this
7 title;

8 (33) Fails to cooperate with a lawful investigation conducted by the
9 [Board] SECRETARY;

10 (34) Is convicted of insurance fraud as defined in § 27-801 of the
11 Insurance Article;

12 (35) Is in breach of a service obligation resulting from the applicant's or
13 licensee's receipt of State or federal funding for the licensee's medical education;

14 (36) Willfully makes a false representation when seeking or making
15 application for licensure or any other application related to the practice of medicine;

16 (37) By corrupt means, threats, or force, intimidates or influences, or
17 attempts to intimidate or influence, for the purpose of causing any person to withhold
18 or change testimony in hearings or proceedings before the [Board] SECRETARY or
19 those otherwise delegated to the Office of Administrative Hearings;

20 (38) By corrupt means, threats, or force, hinders, prevents, or otherwise
21 delays any person from making information available to the [Board] SECRETARY in
22 furtherance of any investigation of the [Board] SECRETARY;

23 (39) Intentionally misrepresents credentials for the purpose of testifying
24 or rendering an expert opinion in hearings or proceedings before the [Board]
25 SECRETARY or those otherwise delegated to the Office of Administrative Hearings; or

26 (40) Fails to keep adequate medical records as determined by appropriate
27 peer review.

28 (b) (1) On the filing of certified docket entries with the [Board] SECRETARY
29 by the Office of the Attorney General, the [Board] SECRETARY shall order the
30 suspension of a license if the licensee is convicted of or pleads guilty or nolo
31 contendere with respect to a crime involving moral turpitude, whether or not any
32 appeal or other proceeding is pending to have the conviction or plea set aside.

33 (2) After completion of the appellate process if the conviction has not
34 been reversed or the plea has not been set aside with respect to a crime involving
35 moral turpitude, the [Board] SECRETARY shall order the revocation of a license on
36 the certification by the Office of the Attorney General.

1 14-117.

2 (a) If [a person is a member of the Board or a legally authorized agent of the
3 Board and] THE SECRETARY OR THE SECRETARY'S DESIGNEE is investigating,
4 prosecuting, participating in a hearing, or otherwise acting on an allegation of a
5 ground for [Board] action BY THE SECRETARY made to the [Board] SECRETARY or
6 the Faculty, the [person] SECRETARY OR THE SECRETARY'S DESIGNEE shall have the
7 immunity from liability described under § 5-715(b) of the Courts and Judicial
8 Proceedings Article.

9 (b) A person who makes an allegation of a ground for [Board] action BY THE
10 SECRETARY to the [Board] SECRETARY or the Faculty shall have the immunity from
11 liability described under § 5-715(c) of the Courts and Judicial Proceedings Article.

12 14-202.

13 (b) This section applies to:

14 (9) [A member of the Board] THE SECRETARY OR THE SECRETARY'S
15 DESIGNEE;

16 14-204.

17 (g) Subject to the hearing provisions of [§ 14-405 of this title] THE
18 ADMINISTRATIVE PROCEDURE ACT, the [Board, on the affirmative vote of a majority
19 of its full authorized membership,] SECRETARY may reprimand or place a physician
20 who performs acupuncture on probation or suspend or revoke the registration of a
21 physician for:

22 (1) Any conduct prohibited under the provisions of this section or
23 prohibited under any regulation adopted pursuant to the provisions of this section;

24 (2) Except in an emergency life-threatening situation where it is not
25 feasible or practicable, fails to comply with the Centers for Disease Control's
26 guidelines on universal precautions; or

27 (3) Failing to display the notice required under subsection (h) of this
28 section.

29 14-317.

30 (a) Subject to the hearing provisions of [§ 14-405 of this title] THE
31 ADMINISTRATIVE PROCEDURE ACT, the [Board] SECRETARY may deny a license or
32 temporary license to any applicant, reprimand any licensee or holder of a temporary
33 license, place any licensee or holder of a temporary license on probation, or suspend or
34 revoke a license or temporary license if the applicant, licensee, or holder:

35 (1) Fraudulently or deceptively obtains or attempts to obtain a license or
36 temporary license for the applicant, licensee, or holder or for another;

- 1 (2) Fraudulently or deceptively uses a license or temporary license;
- 2 (3) Is guilty of unprofessional or immoral conduct in the practice of
3 respiratory care;
- 4 (4) Is professionally, physically, or mentally incompetent;
- 5 (5) Abandons a patient;
- 6 (6) Is habitually intoxicated;
- 7 (7) Is addicted to or habitually abuses any narcotic or controlled
8 dangerous substance as defined in § 5-101 of the Criminal Law Article;
- 9 (8) Provides professional services while:
- 10 (i) Under the influence of alcohol; or
- 11 (ii) Using any narcotic or controlled dangerous substance as
12 defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of
13 therapeutic amounts or without valid medical indication;
- 14 (9) Promotes the sale of services, drugs, devices, appliances, or goods to a
15 patient so as to exploit the patient for financial gain;
- 16 (10) Willfully makes or files a false report or record in the practice of
17 respiratory care;
- 18 (11) Willfully fails to file or record any report as required under law,
19 willfully impedes or obstructs the filing or recording of a report, or induces another to
20 fail to file or record a report;
- 21 (12) Breaches patient confidentiality;
- 22 (13) Pays or agrees to pay any sum or provide any form of remuneration
23 or material benefit to any person for bringing or referring a patient or accepts or
24 agrees to accept any sum or any form of remuneration or material benefit from an
25 individual for bringing or referring a patient;
- 26 (14) Knowingly makes a misrepresentation while practicing respiratory
27 care;
- 28 (15) Knowingly practices respiratory care with an unauthorized
29 individual or aids an unauthorized individual in the practice of respiratory care;
- 30 (16) Offers, undertakes, or agrees to cure or treat disease by a secret
31 method, treatment, or medicine;
- 32 (17) Is disciplined by a licensing or disciplinary authority or is convicted
33 or disciplined by a court of any state or country or is disciplined by any branch of the

1 United States uniformed services or the Veterans' Administration for an act that
2 would be grounds for disciplinary action under the Board's disciplinary statutes;

3 (18) Fails to meet appropriate standards for the delivery of respiratory
4 care performed in any inpatient or outpatient facility, office, hospital or related
5 institution, domiciliary care facility, patient's home, or any other location in this
6 State;

7 (19) Knowingly submits false statements to collect fees for which services
8 are not provided;

9 (20) (i) Has been subject to investigation or disciplinary action by a
10 licensing or disciplinary authority or by a court of any state or country for an act that
11 would be grounds for disciplinary action under the Board's disciplinary statutes; and

12 (ii) The licensed individual:

13 1. Surrendered the license issued by the state or country; or

14 2. Allowed the license issued by the state or country to expire
15 or lapse;

16 (21) Knowingly fails to report suspected child abuse in violation of §
17 5-704 of the Family Law Article;

18 (22) Sells, prescribes, gives away, or administers drugs for illegal or
19 illegitimate medical purposes;

20 (23) Practices or attempts to practice beyond the authorized scope of
21 practice;

22 (24) Is convicted of or pleads guilty or nolo contendere to a felony or to a
23 crime involving moral turpitude whether or not any appeal or other proceeding is
24 pending to have the conviction or plea set aside;

25 (25) Refuses, withholds from, denies, or discriminates against an
26 individual with regard to the provision of professional services for which the licensee
27 is licensed and qualified to render because the individual is HIV positive; or

28 (26) Practices or attempts to practice a respiratory care procedure or uses
29 or attempts to use respiratory care equipment if the applicant, licensee, or holder has
30 not received education and training in the performance of the procedure or the use of
31 the equipment.

32 (b) [Except as otherwise provided in the Administrative Procedure Act,
33 before] BEFORE the [Board] SECRETARY takes any action under [14-5A-17(a)]
34 SUBSECTION (A) of this section, [it] THE SECRETARY shall give the individual against
35 whom the action is contemplated an opportunity for a hearing before the [Board] in
36 accordance with the hearing requirements of [§ 14-405 of this title] THE
37 ADMINISTRATIVE PROCEDURE ACT.

1 (c) (1) On the filing of certified docket entries with the [Board] SECRETARY
2 by the Office of the Attorney General, the [Board] SECRETARY shall order the
3 suspension of a license if the licensee is convicted of or pleads guilty or nolo
4 contendere with respect to a crime involving moral turpitude, whether or not any
5 appeal or other proceeding is pending to have the conviction or plea set aside.

6 (2) After completion of the appellate process if the conviction has not
7 been reversed or the plea has not been set aside with respect to a crime involving
8 moral turpitude, the [Board] SECRETARY shall order the revocation of a license on
9 the certification by the Office of the Attorney General.

10 14-319.

11 On the application of an individual whose license has been revoked, the [Board,
12 on the affirmative vote of a majority of its full authorized membership,]SECRETARY
13 may reinstate a revoked license.

14 14-405.

15 (a) There is a Radiation Oncology/Therapy Technology, Medical Radiation
16 Technology, and Nuclear Medicine Technology Advisory Committee within the
17 [Board] DEPARTMENT.

18 (b) (1) The Committee consists of eight members appointed by the [Board]
19 SECRETARY.

20 (2) Of the eight members:

21 (i) One shall be a licensed physician who specializes in radiology;

22 (ii) One shall be a licensed physician who specializes in nuclear
23 medicine;

24 (iii) One shall be a licensed physician who specializes in radiation
25 oncology;

26 (iv) One shall be a radiation oncology/therapy technologist;

27 (v) One shall be a medical radiation technologist;

28 (vi) One shall be a nuclear medicine technologist;

29 (vii) One shall be a consumer member; and

30 (viii) One shall be [a member of the Board] THE SECRETARY OR THE
31 SECRETARY'S DESIGNEE.

32 14-414.

33 (a) Subject to the hearing provisions of [§ 14-405 of this title] THE
34 ADMINISTRATIVE PROCEDURE ACT, the [Board] SECRETARY may deny a certificate

1 to any applicant for a certificate, reprimand any certified radiation oncology/therapy
2 technologist, certified medical radiation technologist, or certified nuclear medicine
3 technologist, place any certified radiation oncology/therapy technologist, certified
4 medical radiation technologist, or certified nuclear medicine technologist on
5 probation, or suspend or revoke a certificate if the applicant, certified radiation
6 oncology/therapy technologist, certified medical radiation technologist, or certified
7 nuclear medicine technologist:

8 (1) Fraudulently or deceptively obtains or attempts to obtain a
9 certificate for the applicant, certified individual, or for another;

10 (2) Fraudulently or deceptively uses a certificate;

11 (3) Is guilty of unprofessional or immoral conduct in the practice of
12 radiation oncology/therapy technology, medical radiation technology, or nuclear
13 medicine technology;

14 (4) Is professionally, physically, or mentally incompetent;

15 (5) Abandons a patient;

16 (6) Is habitually intoxicated;

17 (7) Is addicted to or habitually abuses any narcotic or controlled
18 dangerous substance as defined in Article 27 of the Code;

19 (8) Provides professional services while:

20 (i) Under the influence of alcohol; or

21 (ii) Using any narcotic or controlled dangerous substance as
22 defined in Article 27 of the Code or any other drug that is in excess of therapeutic
23 amounts or without valid medical indication;

24 (9) Promotes the sale of services, drugs, devices, appliances, or goods to a
25 patient so as to exploit the patient for financial gain;

26 (10) Willfully makes or files a false report or record in the practice of
27 respiratory care;

28 (11) Willfully fails to file or record any report as required under law,
29 willfully impedes or obstructs the filing or recording of a report, or induces another to
30 fail to file or record a report;

31 (12) Breaches patient confidentiality;

32 (13) Pays or agrees to pay any sum or provide any form of remuneration
33 or material benefit to any person for bringing or referring a patient or accepts or
34 agrees to accept any sum or any form of remuneration or material benefit from an
35 individual for bringing or referring a patient;

1 (14) Knowingly makes a misrepresentation while practicing radiation
2 oncology/therapy technology, medical radiation technology, or nuclear medicine
3 technology;

4 (15) Knowingly practices radiation oncology/therapy technology, medical
5 radiation technology, or nuclear medicine technology with an unauthorized individual
6 or aids an unauthorized individual in the practice of radiation oncology/therapy
7 technology, medical radiation technology, or nuclear medicine technology;

8 (16) Offers, undertakes, or agrees to cure or treat disease by a secret
9 method, treatment, or medicine;

10 (17) Is disciplined by a licensing or disciplinary authority or is convicted
11 or disciplined by a court of any state or country or is disciplined by any branch of the
12 United States uniformed services or the Veterans' Administration for an act that
13 would be grounds for disciplinary action under the [Board's] SECRETARY'S
14 disciplinary statutes;

15 (18) Fails to meet appropriate standards for the delivery of quality
16 radiation oncology/therapy technology care, medical radiation technology care, or
17 nuclear medicine technology care performed in any outpatient surgical facility, office,
18 hospital or related institution, or any other location in this State;

19 (19) Knowingly submits false statements to collect fees for which services
20 are not provided;

21 (20) (i) Has been subject to investigation or disciplinary action by a
22 licensing or disciplinary authority or by a court of any state or country for an act that
23 would be grounds for disciplinary action under the [Board's] SECRETARY'S
24 disciplinary statutes; and

25 (ii) The certified individual:

26 1. Surrendered the certificate or license issued by the state
27 or country; or

28 2. Allowed the certificate or license issued by the state or
29 country to expire or lapse;

30 (21) Knowingly fails to report suspected child abuse in violation of §
31 5-704 of the Family Law Article;

32 (22) Sells, prescribes, gives away, or administers drugs for illegal or
33 illegitimate medical purposes;

34 (23) Practices or attempts to practice beyond the authorized scope of
35 practice;

1 (24) Is convicted of or pleads guilty or nolo contendere to a felony or to a
2 crime involving moral turpitude whether or not any appeal or other proceeding is
3 pending to have the conviction or plea set aside;

4 (25) Refuses, withholds from, denies, or discriminates against an
5 individual with regard to the provision of professional services for which the radiation
6 oncology/therapy technologist, certified medical radiation technologist, or certified
7 nuclear medicine technologist is certified and qualified to render because the
8 individual is HIV positive; or

9 (26) Practices or attempts to practice a radiation oncology/therapy
10 technology, medical radiation technology, or nuclear medicine technology procedure or
11 uses radiation oncology/therapy technology, medical radiation technology, or nuclear
12 medicine technology equipment if the applicant or certified individual has not
13 received education, internship, training, or experience in the performance of the
14 procedure or the use of the equipment.

15 (b) [Except as otherwise provided in the Administrative Procedure Act,
16 before] BEFORE the [Board] SECRETARY takes any action under subsection (a) of
17 this section, [it] THE SECRETARY shall give the individual against whom the action is
18 contemplated an opportunity for a hearing before the [Board] SECRETARY in
19 accordance with the hearing requirements of [§ 14-405 of this title] THE
20 ADMINISTRATIVE PROCEDURE ACT.

21 (c) (1) On the filing of certified docket entries with the [Board] SECRETARY
22 by the Office of the Attorney General, the [Board] SECRETARY shall order the
23 suspension of a certified individual if the individual is convicted of or pleads guilty or
24 nolo contendere with respect to a crime involving moral turpitude, whether or not any
25 appeal or other proceeding is pending to have the conviction or plea set aside.

26 (2) After completion of the appellate process if the conviction has not
27 been reversed or the plea has not been set aside with respect to a crime involving
28 moral turpitude, the [Board] SECRETARY shall order the revocation of a certificate
29 on the certification by the Office of the Attorney General.

30 14-502.

31 (c) An unlicensed individual who acts under [§ 14-302 or § 14-306] § 14-109
32 of this title OR REGULATIONS ADOPTED IN ACCORDANCE WITH § 14-105(17) OF THIS
33 TITLE may use the word "physician" together with another word to describe the
34 occupation of the individual as in phrases such as "physician's assistant" or
35 "physician's aide".

36 [14-702.] 14-602.

37 Subject to the evaluation and reestablishment provisions of the Program
38 Evaluation Act, this title and all rules and regulations adopted under this title shall
39 terminate and be of no effect after [October 1, 2003] JULY 1, 2007.

1 15-202.

2 (a) (1) The Committee shall consist of 7 members appointed by the [Board]
3 SECRETARY.

4 (2) Of the 7 Committee members:

5 (i) 3 shall be licensed physicians;

6 (ii) 3 shall be certified physician assistants; and

7 (iii) 1 shall be a consumer.

8 (3) Of the licensed physician members:

9 (i) At least 1 shall specialize in general surgery or a surgical
10 subspecialty; and

11 (ii) At least 1 shall specialize in internal medicine, family practice,
12 or a similar primary care specialty.

13 (4) The [Board] SECRETARY shall:

14 (i) Appoint the physician assistant members from a list of names
15 submitted by:

16 1. The Maryland Academy of Physician Assistants; and

17 2. The State institutions of higher education with approved
18 physician assistant programs;

19 (ii) Appoint the consumer member selected by the Secretary of [the
20 Department of] Health and Mental Hygiene; and

21 (iii) [Assign a physician member of the Board to serve as a voting
22 Board representative at all meetings of the Advisory Committee] SERVE AS A VOTING
23 REPRESENTATIVE OR APPOINT A DESIGNEE.

24 (5) The consumer member:

25 (i) Shall be a member of the general public;

26 (ii) May not be a physician, former physician, physician assistant,
27 or a person in training to become a physician or physician assistant;

28 (iii) May not have a household member who is a physician or
29 physician assistant, or a person in training to become a physician assistant; and

30 (iv) May not have had within 2 years before appointment a
31 substantial financial interest in a process regulated by the [Board] SECRETARY.

1 (6) Each member of the Committee shall be a resident of the State.

2 15-311.

3 Subject to the hearing provisions of § 15-313 of this subtitle, the [Board, on the
4 affirmative vote of a majority of its members then serving,] SECRETARY may deny a
5 certificate to any applicant for:

6 (1) Failure to meet the qualifications for certification; or

7 (2) Any of the reasons that are grounds for disciplinary action under §
8 15-314 of this subtitle.

9 15-314.

10 Subject to the hearing provisions of § 15-315 of this subtitle, the [Board, on the
11 affirmative vote of a majority of its members then serving,] SECRETARY may
12 reprimand any certificate holder or suspend or revoke a certificate if the certificate
13 holder:

14 (1) Fraudulently or deceptively obtains or attempts to obtain a
15 certificate for the applicant or certificate holder or for another individual;

16 (2) Fraudulently or deceptively uses a certificate;

17 (3) Violates any provision of this title or any regulations adopted under
18 this title or commits any act which could serve as the basis for disciplinary action
19 against a physician under [§ 14-404] § 14-112 of this article;

20 (4) Performs delegated medical acts beyond the scope of the certificate
21 not within a delegation agreement approved by the [Board] SECRETARY;

22 (5) Performs delegated medical acts without the supervision of a
23 physician;

24 (6) Refuses, withholds from, denies, or discriminates against an
25 individual with regard to the provision of professional services for which the
26 certificate holder is certified and qualified to render because the individual is HIV
27 positive;

28 (7) Except in an emergency life-threatening situation where it is not
29 feasible or practicable, fails to comply with the Centers for Disease Control's
30 guidelines on universal precautions; or

31 (8) Is in breach of a service obligation resulting from the applicant's or
32 certificate holder's receipt of State or federal funding for the applicant's or certificate
33 holder's physician assistant education.

1 **Article - Courts and Judicial Proceedings**

2 5-715.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) ["Board" means the State Board of Physician Quality Assurance.

5 (3) "Faculty" means the Medical and Chirurgical Faculty of the State of
6 Maryland.

7 (3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
8 HYGIENE.

9 (b) A person who acts without malice and is [a member of the Board] THE
10 SECRETARY or a legally authorized agent of the [Board] SECRETARY, is not civilly
11 liable for investigating, prosecuting, participating in a hearing under [§ 14-405]
12 TITLE 14 of the Health Occupations Article, or otherwise acting on an allegation of a
13 ground for [Board] action BY THE SECRETARY made to the [Board] SECRETARY or
14 the Faculty.

15 (c) A person who acts without malice is not civilly liable for making an
16 allegation of a ground for [Board] action BY THE SECRETARY to the [Board]
17 SECRETARY or Faculty.

18 (d) Any person who acts in good faith is not civilly liable for giving any of the
19 information required under [§ 14-413 or § 14-414] § 14-118 OR § 14-119 of the
20 Health Occupations Article.

21 **Article - State Government**

22 8-403.

23 (b) Except as otherwise provided in subsection (a) of this section, on or before
24 the evaluation date for the following governmental activities or units, an evaluation
25 shall be made of the following governmental activities or units and the statutes and
26 regulations that relate to the governmental activities or units:

27 (51) [Physician Quality Assurance, State Board of] PHYSICIANS,
28 LICENSING AND REGULATION OF ([§ 14-201] TITLE 14, SUBTITLE 1 of the Health
29 Occupations Article: July 1, [2002] 2006);

30 SECTION 5. AND BE IT FURTHER ENACTED, That, on or before October 1,
31 2003:

32 (a) The Secretary of Health and Mental Hygiene shall adopt the rules and
33 regulations regarding the licensure and regulation of physicians; and respiratory care
34 practitioners and the certification and regulation of radiation oncology/therapy
35 technologists, medical radiation technologists, nuclear medicine technologists, and
36 respiratory care practitioners physician assistants in the State.

1 (b) The rules and regulations required in subsection (a) of this section shall
2 include provisions regarding the licensing of physicians related to education and
3 other qualifications, examinations, fees, types of licenses, continuing medical
4 education, renewal, reinstatement, inactive status, and expiration of licenses,
5 advertising, and performance of acupuncture.

6 (c) The rules and regulations required in subsection (a) of this section shall
7 include provisions regarding delegation agreements between physicians and
8 physician assistants, psychiatrists and psychiatric assistants, physicians and cardiac
9 rescue technicians, and physicians and emergency medical technicians or paramedics
10 related to registration or certification requirements, education and other
11 qualifications, fees, renewal and reinstatement of agreements, prohibited conduct,
12 hearing and appeals, penalties, and prescriptive authority for physician assistants.

13 (d) The rules and regulations required in subsection (a) of this section shall
14 include disciplinary standards and penalties for cardiac rescue technicians.

15 (e) The rules and regulations required in subsection (a) of this section shall
16 include provisions regarding the identification of medical specialists related to
17 qualifications, application procedures, fees, hearings, and penalties.

18 (f) The rules and regulations required in subsection (a) of this section shall
19 include provisions regarding the certification of medical radiation technologists,
20 nuclear medicine technologists, ~~and~~ radiation oncology/therapy technologists, and
21 physician assistants and the licensing of respiratory care practitioners related to
22 education and other qualifications, a code of ethics, scope of practice, types of licenses
23 or certificates, a standard of care, renewal, reinstatement, and inactive status of
24 license or certificate, fees, prohibited conduct, and investigations, hearings, and
25 appeals.

26 ~~(g) The rules and regulations required in subsection (a) of this section shall~~
27 ~~include provisions regarding a delegation agreement between a physician and an~~
28 ~~assistant not otherwise authorized by statute related to standards for the physician,~~
29 ~~scope of delegation, and prohibited conduct of the assistant.~~

30 ~~(h)~~ (g) The rules and regulations required in subsection (a) of this section
31 shall include standards for the regulation of ~~unlicensed~~ unlicensed X-ray assistants.

32 ~~(i)~~ (h) The Secretary may adopt any other rules or regulations that the
33 Secretary determines are necessary to properly regulate the practice of medicine in
34 the State.

35 SECTION 6. AND BE IT FURTHER ENACTED, That, on October 1, 2003:

36 (a) Subject to the provisions of Title 14, Subtitle 1 of the Health Occupations
37 Article as enacted by Section 4 of this Act, all the functions, powers, duties,
38 equipment, revenues, assets, liabilities, and records of the State Board of Physician
39 Quality Assurance be transferred to the Secretary of Health and Mental Hygiene,
40 including the functions, powers, and duties of the State Board of Physician Quality
41 Assurance in connection with the regulation of physicians, respiratory care

1 practitioners, radiation oncology/therapy technologists, medical radiation
2 technologists, and nuclear medicine technologists under Title 14 of the Health
3 Occupations Article and physician assistants under Title 15 of the Health
4 Occupations Article; and

5 (b) Any balance remaining in or money payable to the Board of Physician
6 Quality Assurance Fund shall be transferred to the Physicians Licensing Fund
7 created in § 14-106 of the Health Occupations Article as enacted by Section 4 of this
8 Act.

9 SECTION 7. AND BE IT FURTHER ENACTED, That, as of September 30,
10 2003, all special appointments, contractual employees, and temporary employees in a
11 position authorized by § 14-204 of the Health Occupations Article as in effect on
12 September 20, 2003, shall continue their employment with the Department of Health
13 and Mental Hygiene to facilitate the regulation of the practice of medicine in the
14 State.

15 SECTION 8. AND BE IT FURTHER ENACTED, That this Act may not be
16 construed to affect:

17 (a) ~~any~~ Any license or certificate issued by the State Board of Physician
18 Quality Assurance or any person licensed, certified, or otherwise regulated by the
19 ~~State Board of Physician Quality Assurance Board~~;

20 (b) The continuation of a pending investigation according to procedures in
21 place at the time the investigation was begun, except in accordance with new
22 procedures implemented by the Secretary of Health and Mental Hygiene in
23 accordance with this Act;

24 (c) A charge issued by the Board, except in accordance with new procedures
25 implemented by the Secretary in accordance with this Act;

26 (d) A sanction previously imposed by the Board; or

27 (e) An appeal from an order of the Board.

28 SECTION 9. AND BE IT FURTHER ENACTED, That the publisher of the
29 Annotated Code, in consultation with and subject to the approval of the Department
30 of Legislative Services, shall correct all references, cross-references, and terminology
31 that are rendered incorrect by this Act, including all references to the State Board of
32 Physician Quality Assurance to be the Secretary of Health and Mental Hygiene and
33 all references to the Board of Physician Quality Assurance Fund to be the Physicians
34 Licensing Fund.

35 SECTION 10. AND BE IT FURTHER ENACTED, That subject to Section 12 of
36 this Act, Sections 2, 3, 4, 6, 7, 8, and 9 of this Act shall take effect October 1, 2003.

37 SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in
38 Section 10 of this Act and subject to Section 12 of this Act, this Act shall take effect
39 July 1, ~~2003~~, 2003.

1 SECTION 12. AND BE IT FURTHER ENACTED, That this Act is, contingent
2 on the ~~failure~~ passage of S.B. 500, H.B. 790, and H.B. 791 during the 2003 Session of
3 the General Assembly. ~~If one or more of the bills, S.B. 500, H.B. 790, or H.B. 791, is~~
4 ~~enacted and takes effect, and if S.B. 500 is not passed by the General Assembly during~~
5 the 2003 Session, this Act shall be null and void without the necessity of further
6 action by the General Assembly.